

Kafk
AUG 25 2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

BIOVAIL CORPORATION, EUGENE N. MELNYK,
BRIAN CROMBIE, JOHN MISZUK and KENNETH G.
HOWLING,

Defendants.

08 Civ. 02979 (LAK)
ECF CASE

STIPULATION AND ORDER GOVERNING DEADLINE FOR FILING RESPONSIVE
PLEADINGS TO THE AMENDED COMPLAINT AND BRIEFING SCHEDULE FOR
MOTIONS TO DISMISS

WHEREAS, Plaintiff the Securities and Exchange Commission ("SEC" or "Plaintiff")
filed and served a Complaint in this action on March 24, 2008 (the "Original Complaint");

WHEREAS, Defendant Eugene N. Melnyk filed and served an answer to the Original
Complaint in the above captioned matter on June 13, 2008;

WHEREAS, Defendants Brian Crombie, John Miszuk and Kenneth G. Howling filed and
served Motions to Dismiss the Original Complaint on June 23, 2008;

WHEREAS, the SEC filed and served an Amended Complaint in this action on July 31,
2008 (the "Amended Complaint") amending its claims against those defendants who had not
filed a responsive pleading to the Original Complaint;

WHEREAS, the parties believe that it is appropriate and in the interests of judicial
economy to set a common date on which all responsive pleadings to the Amended Complaint
will be due; and

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/29/08

WHEREAS, there has been no previous request for an extension of time for filing responsive pleadings to the Amended Complaint;

IT IS HEREBY STIPULATED AND AGREED; by and among the parties to the above-captioned action presently pending before the Hon. Lewis A. Kaplan in the United States District Court for the Southern District of New York, through their counsel, that:

1. Defendants Brian Crombie, John Miszuk and Kenneth G. Howling shall have until August 22, 2008, to answer or otherwise respond to the Amended Complaint.
2. Plaintiff shall file its opposition briefs to any Motions to Dismiss by no later than September 12, 2008.
3. Defendants shall file reply briefs by no later than September 26, 2008.
4. The Amended Complaint does not amend claims asserted against defendant Eugene N. Melnyk, and no responsive pleading to the Amended Complaint by Mr. Melnyk is required.
5. This Stipulation may be executed in counterparts.

Date: August 22, 2008
New York, New York

By: Todd D. Brody / DS

Mark K. Schonfeld
Andrew M. Calamari
Robert J. Keyes
Todd D. Brody
Celeste A. Chase
Catherine Smith
Securities and Exchange Commission
3 World Financial Center
New York, NY 10281-1022
Tel.: (212) 336-1120

*Attorneys for Plaintiff Securities and
Exchange Commission*

By: _____

Gregory P. Joseph (GJ-1210)
Mara Leventhal (ML-1218)
Gregory P. Joseph Law Offices LLC
485 Lexington Avenue, 30th Floor
New York, NY 10017
Tel.: (212) 407-1200

Lanny A. Breuer
Dennis B. Auerbach (admitted *pro hac vice*)
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, D.C. 20004
Tel.: (202) 662-6000

WHEREAS, there has been no previous request for an extension of time for filing responsive pleadings to the Amended Complaint;

IT IS HEREBY STIPULATED AND AGREED; by and among the parties to the above-captioned action presently pending before the Hon. Lewis A. Kaplan in the United States District Court for the Southern District of New York, through their counsel, that:

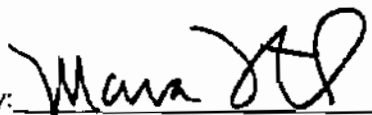
1. Defendants Brian Crombie, John Miszuk and Kenneth G. Howling shall have until August 22, 2008, to answer or otherwise respond to the Amended Complaint.
2. Plaintiff shall file its opposition briefs to any Motions to Dismiss by no later than September 12, 2008.
3. Defendants shall file reply briefs by no later than September 26, 2008.
4. The Amended Complaint does not amend claims asserted against defendant Eugene N. Melnyk, and no responsive pleading to the Amended Complaint by Mr. Melnyk is required.
5. This Stipulation may be executed in counterparts.

Date: August __, 2008
New York, New York

By: _____

Mark K. Schonfeld
Andrew M. Calamari
Robert J. Keyes
Todd D. Brody
Celeste A. Chase
Catherine Smith
Securities and Exchange Commission
3 World Financial Center
New York, NY 10281-1022
Tel.: (212) 336-1120

*Attorneys for Plaintiff Securities and
Exchange Commission*

By:  _____

Gregory P. Joseph (GJ-1210)
Mara Leventhal (ML-1218)
Gregory P. Joseph Law Offices LLC
485 Lexington Avenue, 30th Floor
New York, NY 10017
Tel.: (212) 407-1200

Lanny A. Breuer
Dennis B. Auerbach (admitted *pro hac vice*)
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, D.C. 20004
Tel.: (202) 662-6000

Attorneys for Defendant Eugene N. Melnyk

By: _____

David M. Becker
Shawn J. Chen
Cleary Gottlieb Steen & Hamilton LLP
2000 Pennsylvania Avenue, NW
Washington, D.C. 20006-1801
Tel.: (202) 974-1500

Attorneys for Defendant Brian Crombie

By: _____

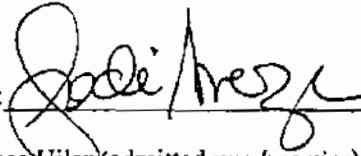
Carmen J. Lawrence
Michael J. Rivera
Michael B. de Leeuw
Nazar Altun
Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, NY 10004-1980
Tel.: (212) 859-8000

Attorneys for Defendant Kenneth G. Howling

By: _____

SO ORDERED:

Honorable Lewis A. Kaplan
United States District Judge

By:  _____

Bruce Hiler (admitted *pro hac vice*)
Jodi Avergun
Cadwalader, Wickersham & Taft LLP
1201 F. Street, NW
Washington, D. C. 20004
Tel.: (202) 862-2200

Attorneys for Defendant John Miszuk

Dated: _____

By: Shawn S. Chen/SAH

David M. Becker
Shawn J. Chen
Cleary Gottlieb Steen & Hamilton LLP
2000 Pennsylvania Avenue, NW
Washington, D.C. 20006-1801
Tel.: (202) 974-1500

Attorneys for Defendant Brian Crombie

By: _____

Bruce Hiler (admitted *pro hac vice*)
Jodi Avergun
Cadwalader, Wickersham & Taft LLP
1201 F. Street, NW
Washington, D. C. 20004
Tel.: (202) 862-2200

Attorneys for Defendant John Miszuk

By: _____

Carmen J. Lawrence
Michael J. Rivera
Michael B. de Leeuw
Nazar Altun
Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, NY 10004-1980
Tel.: (212) 859-8000

Attorneys for Defendant Kenneth G. Howling

By: _____

SO ORDERED:

Honorable Lewis A. Kaplan
United States District Judge

Dated: _____

Attorneys for Defendant Eugene N. Melnyk

By: _____

David M. Becker
Shawn J. Chen
Cleary Gottlieb Steen & Hamilton LLP
2000 Pennsylvania Avenue, NW
Washington, D.C. 20006-1801
Tel.: (202) 974-1500

Attorneys for Defendant Brian Crombie

By: _____

Bruce Hiler (admitted *pro hac vice*)
Jodi Avergun
Cadwalader, Wickersham & Taft LLP
1201 F. Street, NW
Washington, D. C. 20004
Tel.: (202) 862-2200

Attorneys for Defendant John Miszuk


By: _____

Carmen J. Lawrence
Michael J. Rivera
Michael B. de Leeuw
Nazar Altun
Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, NY 10004-1980
Tel.: (212) 859-8000

Attorneys for Defendant Kenneth G. Howling

By: 

SO ORDERED: 2008 28


Honorable ~~Lewis A. Kaplan~~ Paul A. Crotty
United States District Judge Part I

Dated: August 28, 2008